

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY TOKYO IMMEDIATE

INFO AMEMBASSY ABIDJAN

AMEMBASSY COPENHAGEN

AMEMBASSY MEXICO

UNCLAS STATE 267527

E.O. 11652: N/A

TAGS: EFIS, US, PLOS

SUBJECT: CSFR ENFORCEMENT

REF: BUSBY-SULLIVAN TELECON

FOR ACTING ASST SECRETARY CLINGAN

ABIDJAN, COPENHAGEN, MEXICO CITY FOR INFO FISH ATTACHES

FOLLOWING CIRCULAR NOTE BEING ISSUED DATED TODAY, DEC 5,
ON NEW CSFR ENFORCEMENT MEASURES WHICH BECAME EFFECTIVE
12:01 AM TODAY:

QTE THE SECRETARY OF STATE PRESENTS HIS COMPLIMENTS TO
THEIR EXCELLENCIES AND MESSIEURS THE CHIEFS OF MISSION OF
THE GOVERNMENTS WHOSE FISHERMEN HAVE BEEN KNOWN TO OR
CURRENTLY DO FISH IN THE WATERS ADJACENT TO THE COASTS OF
THE UNITED STATES OF AMERICA, AND HAS THE HONOR TO REFER
TO HIS CIRCULAR NOTE OF SEPTEMBER 5, 1974, ANNOUNCING NEW
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GUIDELINES FOR THE ENFORCEMENT OF THE RIGHTS OF THE UNITED
STATES TO THE LIVING RESOURCES OF THE CONTINENTAL SHELF
THAT APPERTAIN TO THE UNITED STATES.

AS SET FORTH IN THE CIRCULAR NOTE OF SEPTEMBER 5, THE NEW GUIDELINES BECAME EFFECTIVE ON DECEMBER 5, 1974.

THIS CIRCULAR NOTE WILL ACT AS A REMINDER OF THE NEW GUIDELINES AND SETS FORTH AND CLARIFIES THE SPECIFIC ENFORCEMENT PROVISIONS BEING ISSUED TO UNITED STATES ENFORCEMENT OFFICERS.

WHILE THE UNITED STATES RECOGNIZES THAT THE EXERCISE OF THE FREEDOM OF FISHING ON THE HIGH SEAS MAY NECESSARILY ENTAIL SOME INCIDENTAL CATCH OF LIVING RESOURCES OF THE CONTINENTAL SHELF, AND THAT A TOTAL PROHIBITION ON ALL INCIDENTAL CATCH WOULD NOT BE REASONABLE IN VIEW OF PRACTICAL CONSIDERATIONS, IT IS CONSIDERED REASONABLE TO REQUIRE THAT AGREEMENT BE REACHED BETWEEN THE UNITED STATES AND THE STATE CONCERNED REGARDING PROCEDURES TO REDUCE AND CONTROL THE INCIDENTAL CATCH OF LIVING RESOURCES OF THE CONTINENTAL SHELF BY VESSELS USING BOTTOM GEAR WHICH WOULD NORMALLY RESULT IN THE CATCH OF LIVING RESOURCES OF THE CONTINENTAL SHELF

--- AND THAT IN THE ABSENCE OF SUCH AGREEMENT THE UNITED STATES MAY TAKE STEPS TO ENFORCE ITS RIGHTS WITH RESPECT TO THE LIVING RESOURCES OF THE CONTINENTAL SHELF.

COUNTRIES MAY HAVE AGREEMENTS WITH THE UNITED STATES WHICH ARE EITHER COMPLETELY SATISFACTORY OR PARTIALLY SATISFACTORY IN THE EXTENT TO WHICH THEY CONTAIN PROVISIONS THAT REDUCE AND CONTROL THE INCIDENTAL CATCH OF LIVING RESOURCES OF THE CONTINENTAL SHELF.

(1) COMPLETELY SATISFACTORY AGREEMENTS MUST BE FORMAL WRITTEN AGREEMENTS BETWEEN NATIONS WHICH FULLY MEET UNITED STATES REQUIREMENTS FOR CONSERVATION OF LIVING RESOURCES OF THE CONTINENTAL SHELF AS DETERMINED BY THE UNITED STATES AT THE TIME OF THE NEGOTIATION OF
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THE AGREEMENTS.

(2) PARTIALLY SATISFACTORY AGREEMENTS ARE THOSE WRITTEN AGREEMENTS WHICH THE UNITED STATES, AT THE TIME OF THE NEGOTIATION OF THE AGREEMENTS, FEELS DO NOT FULLY MEET UNITED STATES REQUIREMENTS AND THOSE TACIT AGREEMENTS WITH NATIONS, AS EVIDENCED BY THE PRACTICE OF FISHING VESSELS OF THOSE NATIONS, WHICH MEET THE FOLLOWING REQUIREMENTS:

(A) VESSELS DO NOT CONDUCT ANY DIRECTED FISHERIES FOR LIVING RESOURCES OF THE CONTINENTAL SHELF ON THE UNITED STATES CONTINENTAL SHELF.

(B) VESSELS AVOID CONCENTRATIONS OF LIVING RESOURCES OF THE CONTINENTAL SHELF, AND, WHEN A CONCENTRATION IS ENCOUNTERED IN THE COURSE OF THEIR FISHING OPERATIONS, THE VESSELS TAKE IMMEDIATE STEPS TO AVOID THE CONCENTRATION IN FUTURE TOWS.

(C) WHEN VESSELS TAKE ANY INCIDENTAL CATCH OF LIVING RESOURCES OF THE CONTINENTAL SHELF, THE LIVING RESOURCES OF THE CONTINENTAL SHELF ARE IMMEDIATELY RETURNED TO THE SEA WITH A MINIMUM OF INJURY AND THE AMOUNT AND DISPOSITION OF SUCH CATCH IS PROMPTLY RECORDED IN THE VESSELS' OFFICIAL LOG.

(D) CATCH AND DISPOSITION DATA ON INCIDENTAL CATCHES OF LIVING RESOURCES OF THE CONTINENTAL SHELF IS MADE AVAILABLE TO THE UNITED STATES UPON REQUEST TO AID IN THE APPROPRIATE MANAGEMENT OF LIVING RESOURCES OF THE CONTINENTAL SHELF STOCKS.

REGULATIONS ADOPTED BY INTERNATIONAL FISHERIES COMMISSIONS WHICH HAVE THE EFFECT OF REDUCING AND CONTROLLING THE INCIDENTAL CATCH OF LIVING RESOURCES OF THE CONTINENTAL SHELF MAY BE CONSIDERED AS PARTIALLY SATISFACTORY AGREEMENTS.

SPECIFIC ENFORCEMENT PROCEDURES ARE ENCLOSED WITH THIS CIRCULAR NOTE.
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THE SECRETARY OF STATE WOULD BE GRATEFUL IF EACH CHIEF OF MISSION WOULD FORWARD THIS INFORMATION TO HIS GOVERNMENT.
ENDQTE

ENCLOSURE

BEGIN TEXT

(BEGIN UNDERSCORE) PROCEDURES (END UNDERSCORE): SPECIFIC ENFORCEMENT PROCEDURES FALL INTO THREE GROUPS, WITH RESPECT TO THREE CATEGORIES OF VESSELS: THOSE WHOSE FLAG STATES HAVE AN AGREEMENT WITH THE UNITED STATES WHICH SATISFIES OUR LIVING RESOURCES OF THE CONTINENTAL SHELF CONSERVATION REQUIREMENTS; THOSE WHOSE FLAG STATES HAVE AN AGREEMENT WITH THE UNITED STATES WHICH PARTIALLY SATISFIES OUR LIVING RESOURCES OF THE CONTINENTAL SHELF CONSERVATION REQUIREMENTS; AND, THOSE WHOSE FLAG STATES HAVE NO AGREEMENT WITH THE UNITED STATES ON LIVING RESOURCES OF THE CONTINENTAL SHELF.

A. COUNTRIES HAVING SATISFACTORY AGREEMENTS WITH THE UNITED STATES. VESSELS OF THESE NATIONS WILL NOT BE

BOARDED AND INSPECTED UNDER THE LIVING RESOURCES OF THE CONTINENTAL SHELF LAW UNLESS: (1) A DIRECTED FISHERY FOR LIVING RESOURCES OF THE CONTINENTAL SHELF IS OBSERVED WHICH IS NOT PERMITTED BY THE AGREEMENT, OR (2) IN THE JUDGMENT OF THE ENFORCEMENT OFFICER ON THE SCENE, THE VESSEL IS VIOLATING THE TERMS OF THE AGREEMENT IN SUCH A WAY AS TO GIVE THE ENFORCEMENT OFFICER REASON TO BELIEVE THAT LIVING RESOURCES OF THE CONTINENTAL SHELF ARE BEING TAKEN IN EXCESS OF THAT AUTHORIZED BY THE AGREEMENT, OR (3) SUCH BOARDING IS EXPRESSLY PROVIDED FOR IN THE AGREEMENT.

B. COUNTRIES HAVING AGREEMENTS WITH THE UNITED STATES WHICH ARE PARTIALLY SATISFACTORY. VESSELS MAY BE BOARDED AND INSPECTED WHEN THE ENFORCEMENT OFFICER HAS REASON TO BELIEVE THE VESSEL IS TAKING LIVING RESOURCES OF THE CONTINENTAL SHELF.

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(1) IF THE VESSEL IS FOUND TO BE FISHING WITH GEAR DESIGNED SPECIFICALLY TO CATCH LIVING RESOURCES OF THE

CONTINENTAL SHELF, WHETHER OR NOT ANY LIVING RESOURCES OF THE CONTINENTAL SHELF HAVE ACTUALLY BEEN TAKEN, THE

VESSEL SHALL BE SEIZED FOR VIOLATING 16 USC 1081 ET SEQ.

2. IF THE VESSEL IS FOUND TO HAVE RETAINED LIVING RESOURCES OF THE CONTINENTAL SHELF ABOARD, IT SHALL BE SEIZED FOR VIOLATING 16 USC 1081 ET SEQ. RETENTION OF LIVING RESOURCES OF THE CONTINENTAL SHELF IS DEFINED AS PROCESSING, OTHERWISE SAVING, OR, IN THE JUDGMENT OF THE ENFORCEMENT OFFICER, FAILING TO RETURN PROMPTLY TO THE SEA WITH A MINIMUM OF INJURY.

(3) IF THE VESSEL IS FOUND TO BE RESETTING ITS GEAR IN AN AREA OF CONCENTRATION OF LIVING RESOURCES OF THE CONTINENTAL SHELF, IT SHALL BE SEIZED FOR VIOLATING 16 USC 1081 ET SEQ. AN AREA OF CONCENTRATION OF LIVING RESOURCES OF THE CONTINENTAL SHELF IS DEFINED AS AN AREA WHERE THE VESSEL HAS RECENTLY COMPLETED A HAULBACK WHICH RESULTED IN THE INCIDENTAL CATCH OF MORE THAN THE NUMBER OF INDIVIDUAL SPECIMENTS OF LIVING RESOURCES OF THE CONTINENTAL SHELF TABULATED BY SPECIES IN THE ATTACHMENT. AREAS WHERE UNITED STATES FISHERMEN SET THEIR GEAR IN A DIRECTED FISHERY FOR LIVING RESOURCES OF THE CONTINENTAL SHELF WOULD GENERALLY BE EXPECTED TO BE AREAS OF CONCENTRATION AND ENFORCEMENT OFFICERS SHOULD BE ESPECIALLY ALERT FOR EXCESS INCIDENTAL CATCHES IN THESE AREAS. FOREIGN VESSELS BOARDED IN THESE AREAS EVEN THOUGH NOT

FOUND TO BE TAKING LIVING RESOURCES OF THE CONTINENTAL SHELF, SHOULD BE CLEARLY WARNED THAT THEY ARE FISHING IN A LIKELY AREA OF CONCENTRATION.

(4) IF THE VESSEL IS NOT FISHING IN AN AREA OF CONCENTRATION OF LIVING RESOURCES OF THE CONTINENTAL SHELF, AND IS TAKING PROMPT ACTION TO RETURN LIVING RESOURCES OF THE CONTINENTAL SHELF TO THE SEA WITH A MINIMUM OF INJURY, THE VESSEL SHOULD BE REMINDED OF THE UNITED STATES LAW
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PROHIBITING THE FOREIGN TAKING OF LIVING RESOURCES OF THE CONTINENTAL SHELF.

C. COUNTRIES NOT HAVING AN AGREEMENT WITH THE UNITED STATES. VESSELS OF COUNTRIES NOT HAVING AN AGREEMENT ON LIVING RESOURCES OF THE CONTINENTAL SHELF WITH THE UNITED STATES MAY BE BOARDED AND INSPECTED WHEN ENFORCEMENT OFFICER HAS REASON TO BELIEVE THE VESSEL IS TAKING LIVING RESOURCES OF THE CONTINENTAL SHELF.

(1) IF THE VESSEL IS FOUND TO BE FISHING WITH GEAR DESIGNED SPECIFICALLY TO CATCH LIVING RESOURCES OF THE CONTINENTAL SHELF, WHETHER OR NOT ANY LIVING RESOURCES OF THE CONTINENTAL SHELF HAVE ACTUALLY BEEN TAKEN, THE

VESSEL SHALL BE SEIZED FOR VIOLATING 16 USC 1081 ET SEQ.

(2) IF THE VESSEL IS FOUND TO HAVE RETAINED LIVING RESOURCES OF THE CONTINENTAL SHELF ABOARD, AS DEFINED ABOVE, IT SHALL BE SEIZED FOR VIOLATING 16 USC 1081 ET SEQ.

(3) IF THE VESSEL IS FOUND TO BE RESETTING ITS GEAR IN AN AREA OF CONCENTRATION OF LIVING RESOURCES OF THE CONTINENTAL SHELF, AS DEFINED ABOVE, IT SHALL BE SEIZED FOR VIOLATING 16 USC 1081 ET SEQ.

(4) IF THE VESSEL IS FOUND TO HAVE TAKEN AN INSUBSTANTIAL CATCH, LESS THAN THE NUMBER OF SPECIMENTS TABULATED BY SPECIES IN THE ATTACHMENT, AND IS TAKING PROMPT ACTION TO RETURN THE LIVING RESOURCES OF THE CONTINENTAL SHELF TO THE SEA WITH A MINIMUM OF INJURY, AND THE CATCH APPEARS TO BE NEITHER DELIBERATE NOR REPEATED, THE VESSEL SHALL BE WARNED THAT REPEATED CATCHES WILL SUBJECT THE VESSEL TO SEIZURE UNDER UNITED STATES LAW.

(5) IF THE VESSEL HAS TAKEN CATCHES OF LIVING RESOURCES OF THE CONTINENTAL SHELF OVER TWO OR MORE BOARDINGS, THE CATCHES SHALL BE CONSIDERED TO BE REPEATED CATCHES AND THE VESSEL SHALL BE SEIZED FOR VIOLATING 16 USC 1081 ET SEQ.

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END ENCLOSURE

ATTACHMENT TO ENCLOSURE

BEGIN TEXT

SPECIES-----NUMBER DEFINING AREA OF CONCENTRA-
TION.

COELENTERATA

BLACK CORAL

GOLD CORAL

PRECIOUS RED CORAL

BAMBOO CORAL

GOLD CORAL

CRUSTACEA

DUNGENESS CRAB

TANNER CRAB

TANNER CRAB

TANNER CRAB

TANNER CRAB

DEEP-SEA RED CRAB----- 10

AMERICAN LOBSTER----- 8

GOLDEN KING CRAB

STONE CRAB

STONE CRAB

KING CRAB

CALIFORNIA KING CRAB

KING CRAB

KING CRAB

CALIFORNIA KING CRAB

MOLLUSKS

OCEAN QUAHOG

PINK ABALONE

JAPANESE ABALONE

RED ABALONE

SURF CLAM

QUEEN CONCH

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SPONGES

GLOVE SPONGE

SHEEPSWOOL SPONGE

YELLOW SPONGE

GRASS SPONGE

THE FIGURES ENTERED ABOVE ARE PRELIMINARY AND SUBJECT

TO REVISION. WHERE NO FIGURE APPEARS OPPOSITE A PARTICULAR SPECIE, THE FIGURE IS BEING DEVELOPED AND WILL BE PUBLISHED AS SOON AS POSSIBLE.

END ATTACHMENT KISSINGER

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<< END OF DOCUMENT >>

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